

REMARKS

Applicant and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. This submission is made in response to the Final Office Action dated January 17, 2007. Claims 1, 3, 4, 6-15, 17, 18, and 20-28 are currently pending for examination, of which claims 1, 15 and 28 are independent; the remaining claims are dependent claims. In response, Applicant has filed herewith a Request for Continued Examination and this Amendment, amending independent claims 1, 15, and 28 and dependent claims 9 and 23. The Examiner is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the foregoing amendments and following remarks.

On Wednesday March 5, 2008, Applicants' representative conducted a telephone interview with the Examiner in which the pending claims and art of record were discussed. While no specific agreement was reached as to the outstanding issues in the Office Action, it was agreed that Applicants would submit a response for the Examiner's consideration.

Applicants are not conceding in this application the claims amended herein are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Rejection of claims under 35 U.S.C. § 103(a):

Claims 1, 3, 4, 6-12, 17, 18, 20-25 and 28 stand rejected as being unpatentable over U.S. Patent 5,838,314 to Neel et al. (hereinafter Neel) in view of U.S. Patent 5,619,247 to Russo (hereinafter Russo) under 35 U.S.C. § 103(a). Claims 13, 14, 26, and 27 stand rejected as being unpatentable over Neel in view of Russo, and further in view of the U.S. published application 2003/0133692 of Hunter (hereinafter Hunter) under 35 U.S.C. § 103(a). Applicants respectfully request reconsideration and withdrawal of these rejections.

The previously submitted remarks regarding these references remain applicable and are therefore incorporated herein for the sake of brevity. Applicants respectfully submit that neither Neel nor Russo nor Hunter teaches the subject matter of claims 1, 15 and 28, as amended. Moreover the newly amended claims make it clear that the references do not teach all of the claim limitations. Therefore, at least for this reason, Neel, either alone or in any combination with the other art of record, does not teach all of the limitations of the independent claims. Applicants respectfully request reconsideration and withdrawal of these rejections.

With regards to the independent claims, the Examiner states the following:

Neel also discloses that the system control computer offers the user an option for the user to view an advertisement, which would make the video program free to the user or “adjust the attributed credit value...based on the cost factor data (e.g. cost of program) and one additional predetermined criteria (e.g. viewing advertisements)” (See Neel Fig. 7a), wherein the at least one additional predetermined criteria is not the received media bearing a negative credit value (e.g. the predetermined criterion is viewing an advertisement which has a positive credit value as discussed above).

Office Action, p. 3. As Applicants had previously attempted to make clear, additional criteria, that can be predetermined (e.g. programmed into the system), other than viewing advertisements, may be used to adjust the credit values by the system controller (e.g. movie values may decline with time; advertisements may be worth more or less when viewed by certain customers based upon their demographic information—see *Specification*, page 7, lines 9-15).

In order to expedite prosecution, the independent claims have been amended to recite, *inter alia*,

a controller which...is adapted to adjust the attributed credit value of the received media content based on said cost factor data and at least one additional *predetermined* criterion external to the received media content;

Claim 1 (emphasis added). The other independent claims 15 and 28 have been amended to include similar language. This amended claim language is intended to clearly indicate that at least one other criterion, other than viewing the advertising (e.g. time adjustments and taking into account user demographics), is used to adjust the attributed value of the media content. Such additional factors may be programmed (i.e. are “predetermined”) into the system and this does not mean simply that an employee (e.g. hotel employee) may waive a fee on a case-by-case basis (e.g. upon a user encountering difficulty using the system). See *Specification*, page 7, lines 9-15; *Neel*, Col. 14, lines 1-15; Col. 5, lines 64-67; *Russo*, Col. 5, lines 25-33.

For the foregoing reasons, Applicants respectfully submit that claims 1, 15, and 28 are allowable over *Neel*, *Russo* and *Hunter*, in any combination. Applicants

respectfully request that the Examiner withdraw the rejection of claims 1, 15, and 28 as being unpatentable under 35 U.S.C. § 103(a).

Applicants also note that dependent claim 9 (and corresponding method claim 23) has been amended solely in an effort to facilitate expeditious prosecution. These claims are allowable over the art of record based upon their dependence from what are believed to be allowable independent claims and based upon their further amendment.

With regards to the rejection of claims 3, 4, 6-8, 10-12, 17, 18, and 20-22, 24-25, these claims are dependent upon independent claims 1 and 15. Applicants respectfully submit that these claims are allowable for at least the same reasons as discussed above with regards to the independent claims. Applicants respectfully request that the Examiner withdraw the rejection of the claims as being unpatentable under § 103(a). Applicants would like to respectfully point out that the teachings of Hunter are not sufficient to overcome the above discussed deficiencies in the teachings of Neel and Russo with respect to the subject matter of the independent claims, as amended.

Request for Telephone Interview

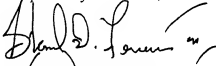
Applicants respectfully request that if the Examiner, after taking up and considering this Amendment, finds issues remaining in the case precluding the claims from being in condition for allowance, that the Examiner contact the undersigned at the telephone number listed below. Applicants respectfully submit that this is a particularly appropriate request given the prosecution history of this case, in which a third Request for Continued Examination has now been filed.

Conclusion:

In view of the foregoing, it is respectfully submitted that independent claims 1, 15, and 28 fully distinguish over the applied art and are thus in condition for allowance. By virtue of dependence from claims 1 and 15, and in their own right, it is also submitted that claims 3, 4, 6-14, 17, 18, and 20-27 are also allowable at this juncture.

In summary, it is respectfully submitted that the instant application, including claims 1, 3, 4, 6-15, 17, 18, and 20-28, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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